



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/296,120	04/21/1999	THOMAS J. REDDIN	03628-0400	7995

29052 7590 01/18/2005

SUTHERLAND ASBILL & BRENNAN LLP  
999 PEACHTREE STREET, N.E.  
ATLANTA, GA 30309

EXAMINER
----------

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

### **Unacceptable Appeal Brief**

The Brief, filed on October 27, 2004, contains claims, namely claims 44, 45 and 66, that were submitted along with the rest of the claims as claims on Appeal (See Appendix). However, **claim 66 was restricted in the last Office Action for disclosing a different invention (restriction issued for more than two months) and claims 44 and 45 have been objected to.**

A restriction requirement and claim objections do not fall under Appealable matter. In other words, the arguments as to whether or not claim 66 discloses a different invention and the objection to claims 44 and 45 is proper do not constitute an **Appealable matter**; they fall rather under **Petitionable matter** (See MPEP 1201, 37 CFR 1.144 and 1.181). Therefore, the Brief is deemed **Defective or Unacceptable**. Applicant is required to withdraw claim 66 and remove therefrom any associated remarks along with the arguments related to claims 44 and 45 before an Examiner's Answer can be issued. A short statutory period (30 days or a month) is herein being given to respond to this correspondence.

### **Conclusion**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

Application/Control Number: 09/296,120

Page 3

Art Unit: 3622

After Final- 703-872-9327

Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

JDJ

Jean D. Janvier

01/03/04

Patent Examiner

Art Unit 3622

JEAN D. JANVIER  
PRIMARY EXAMINER

*Janvier Jean Dario*